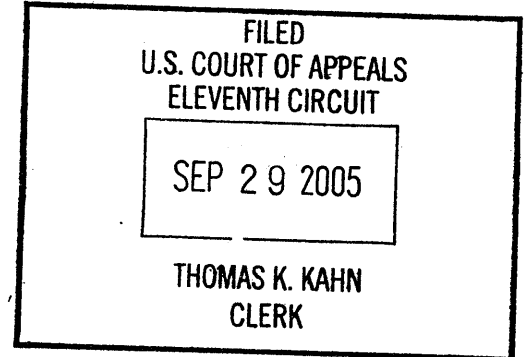


IN THE UNITED STATES COURT OF APPEALS

RECEIVED
FOR THE ELEVENTH CIRCUIT

2005 SEP 30 A 10: 58

NO. 05-13931-F



JOHN HENRY TOWNSEND,

Petitioner-Appellant,

versus

UNITED STATES OF AMERICA,

Respondent-Appellee.

Appeal from the United States District Court for the
Middle District of Alabama

ORDER:

To merit a certificate of appealability, appellant must show that reasonable jurists would find debatable both (1) the merits of an underlying claim and (2) the procedural issues he seeks to raise. See 28 U.S.C. § 2253(c)(2); Slack v. McDaniel, 529 U.S. 473, 478, 120 S.Ct. 1595, 1600-01, 146 L.Ed.2d 542 (2000). Because appellant has failed to satisfy the second prong of Slack's test, the motion for a certificate of appealability is DENIED.

Appellant's motion for leave to proceed on appeal in forma pauperis is DENIED AS MOOT.

/s/ Rosemary Barkett
UNITED STATES CIRCUIT JUDGE

A True Copy - Attested:
Clerk, U. S. Court of Appeals,
Eleventh Circuit

By: _____

Deputy Clerk
Atlanta, Georgia